

In The United States District Court
For The District of Delaware

James W. Riley,
Plaintiff,
v.
Stanley Taylor, et al.,
Defendants.

C.A. No.: 06-001-GMS

Motion To Alter The Judgment
And Reconsideration Of The
Court's December 5, 2006
Memorandum And Order



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Now Comes the plaintiff James W. Riley who moves this court to reconsider and to alter its judgment rendered in the Memorandum And Order dated December 5, 2006, granting defendant's motion to Dismiss the complaint against CMS and dismiss the skin care (necrotizing fasciitis infection & exposure) claim.

However the court gave plaintiff an opportunity to Amend his complaint against CMS who misled this court to believe that plaintiff's original complaint did not contain sufficient facts of their policy and practice to deny inmates adequate medical care. (See A Certified copy of Plaintiff's Complaint ATTACHED to defendant CMS' and Malaney's Motion To Dismiss as Exhibit-1, which delete the information on back of

page 5 describing CMS and FMC involvement).

Also this court STATED on page 12 of its Memorandum... "Riley did NOT respond to this portion of the motion To dismiss." To the contrary see section "B" page 5 to 7 of Plaintiff's Reply To Medical Defendants' Memorandum IN Opposition To Plaintiff's motion For Summary Judgment. (I.D #33).

Therefore this court must now rule that plaintiff need not Amend his complaint AGAINST CMS and CMS' motion To Dismiss is reconsidered and thereafter hereby is denied.

Lastly, because plaintiff set forth sufficient facts which establish that CMS maintained a policy and practice to deny all Delaware Department of Correction prisoners adequate medical care through inadequate staffing, and a policy of less services more money contracts; thus it would be premature for this court to dismiss plaintiff's skin care (exposure to necrotizing fasciitis bacteria) claim wherein it is plaintiff's contention that CMS and FMC delegated the responsibility to treat plaintiff for this serious medical condition (an epidemic in the prison system) to unqualified nursing staff who merely rendered unqualified medical judgments. In support of plaintiff's contentions made here see page A9 thru A12 of the September 25, 2005 Sunday News Journal Paper Articles written by Lee Williams and Esteban Parra; and in particularly see Sections entitle: "Sleeping On The Floor" and

"This Should Be Exposed" on page A-11. These News Articles contain sworn statements of Former Nurses relating to all the issues described herein and the policy & practice of CMS and FCM to deny inmates reasonable medical care lawfully required by STATE and Federal law.

For This reason reconsideration should be granted and the Court should Alter its initial judgment by issuing an Amended Memorandum & Order denying defendants' motion to dismiss plaintiff's skin care claim.

Wherefore reconsideration to Alter the court's judgment of December 5, 2006 granting defendants' motion to dismiss defendant CMS and the skin care claim.

Respectfully submitted

James W. Riley

James W. Riley, pro se

Delaware Correctional Center

1181 Paddock Road

Smyrna, Delaware 19977

Date: December 12, 2006

Certificate of Service

I, James Riley, hereby certify that I have served a true and correct cop(ies) of the attached: Motion To Alter The Judgment
And Reconsideration OF Courts Memo. upon the following
And Order OF December 5, 2006.
parties/person (s):

TO: Kevin J. Connors, Esq. TO: _____
1220 N. Market St., 5th, fl.
P. O. Box 8888
Wilmington, Delaware
19899-8888

TO: Ophelia M. Waters, Esq. TO: _____
Deputy Attorney General
820 N. French Street
Wilmington, Delaware
19801

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 13 day of December, 2006

James Riley

IM James Riley

SBI# 169716 UNIT MWU Bldg. 22

1181 PADDOCK ROAD
DELAWARE CORRECTIONAL CENTER

SMYRNA, DELAWARE 19977

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